

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

OCT 22 2004

FILE

COPY

OFFICE OF  
MANAGING DIRECTOR

Jeremy Lansman, President  
Fireweed Communications Corp.  
Fireweed Communications LLC  
3700 Woodland Drive, #800  
Anchorage, Alaska 99517

Re: Fireweed Communications Corporation  
Stations KYES(TV), KYEX-LP, and  
KZND-LP  
FY 2004 Regulatory Fee  
Fee Control No. 00000RROG-04-074

Dear Mr. Lansman:

This letter responds to your request filed with the Commission on August 19, 2004, on behalf of Fireweed Communications Corporation and Fireweed Communications LLC (collectively, Fireweed) for a waiver of the fiscal year (FY) 2004 regulatory fees for Stations KYES(TV), KYEX-LP, KZND-LP, Anchorage, Alaska, and the associated translator and auxiliary stations on the grounds of financial hardship.<sup>1</sup> Our records reflect that you have not paid the regulatory fees at issue here.

Noting that the Commission granted Fireweed Communications Corporation a waiver of the FY 2003 regulatory fees for the instant stations on the grounds of financial hardship, you assert that the financial condition of the company "is not significantly changed from the prior year." You claim that "[a] regulatory fee payment will significantly impact the ability of Fireweed to provide over the air television broadcast service to the public." You state that a conflict with the owner of the antenna site used by KYES has been resolved and KYES is now "free to replace its antenna system[.]" thus enabling KYES to further its plan "to solicit financial investment in hopes of getting the company on a sound footing." You state that KYES has formed a limited liability company, Fireweed Communications LLC (whose ownership is identical to that of Fireweed Communications Corporation), as the first step in seeking investment funds. You maintain that Fireweed operated at a loss for FY 2004, "even if payments made to its owners are added back." You state that "[t]he best and most recent financial information will be provided Commission staff" upon request.

The Commission may waive, reduce, or defer regulatory fees only upon a showing of good cause and a finding that the public interest will be served thereby. *See* 47 U.S.C. §159(d); 47 C.F.R. §1.1166; *see also Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year, Report and*

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<sup>1</sup> Although you filed your letter with the Commission on August 19, 2004, we note that your letter is dated September 19, 2004.

*Order*, 9 FCC Rcd 5333, 5344 (1994), *on recon.*, *Memorandum Opinion and Order*, 10 FCC Rcd 12,759, para. 12 (1995) (regulatory fees may be waived, deferred, or reduced on a case-by-case basis in extraordinary and compelling circumstances upon a clear showing that a waiver would override the public interest in reimbursing the Commission for its regulatory costs). The Commission will waive, reduce or defer its regulatory fees in those instances where a petitioner presents a compelling case of financial hardship. *See Implementation of Section 9 of the Communications Act*, 9 FCC Rcd 5333, 5346 (1994), *on recon.*, 10 FCC Rcd 12759 (1995). Regulatees can establish financial hardship by submitting

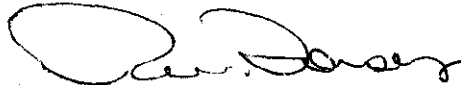
information such as a balance sheet and profit and loss statement (audited, if available), a cash flow projection . . . (with an explanation of how calculated), a list of their officers and their individual compensation, together with a list of their highest paid employees, other than officers, and the amount of their compensation, or similar information. 10 FCC Rcd at 12761-12762.

In the absence of such documentation, or other relevant showing, you have failed to establish a compelling case for relief in any of the instant waiver requests. Therefore, your requests for waiver of the regulatory fees are denied. Payment of the FY 2004 regulatory fees is now due. The regulatory fee for each station should be filed together with a Form FCC 159 (copies enclosed) within 30 days from the date of this letter. However, in view of your allegations of financial hardship, in lieu of payment, you may refile the requests for relief together with appropriate supporting documentation and a request to defer further payment of the fees, within 30 days from the date of this letter.

You have also requested confidential treatment of the financial material that Fireweed will submit upon request from the Commission. Pursuant to section 0.459(d)(1) of the Commission's rules, 47 C.F.R. §0.459(d)(1), we do not routinely rule on requests for confidential treatment until we receive a request for access to the records. The records are treated confidentially in the meantime. If a request for access to the information submitted in conjunction with your regulatory fees is received, you will be notified and afforded the opportunity to respond at that time.

If you have any questions concerning this matter, please contact the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,



Mark A. Reger  
Chief Financial Officer

Enclosures